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January 30, 2001

VIA ELECTRONIC FILING

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW- TW - A235
Washington, DC 20554

Re: CC Docket No. 00-199, 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 3 and Phase 3

Dear Ms. Salas:

Attached are the Associations for Local Telecommunications Services Reply Comments in response to the Commission's Notice of Proposed Rulemaking released October 18, 2000 in the above captioned proceeding.

Sincerely,

/s/

Kimberly M. Kirby
Association for Local Telecommunications Services

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	**)**	
	)	
2000 Biennial Regulatory Review --	**)**	
Comprehensive Review of the	**)**	
Accounting Requirements and	**)**	**CC Docket No. 00-199**
ARMIS Reporting Requirements for	**)**	
Incumbent Local Exchange Carriers:	**)**	
Phase 2 and Phase 3	**)**	

REPLY COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The Association For Local Telecommunications Services ("ALTS") submits these reply comments in response to the FCC's October 18, 2000 Notice of Proposed Rulemaking ("NPRM"), Phase 2 and Phase 3. In 1999, the Federal Communications Commission ("Commission") initiated a comprehensive review of its accounting and reporting requirements for incumbent local exchange carriers ("ILECS"). In Phase 1, the Commission adopted Part 32 accounting rule changes and reporting reform for the Automated Reporting Management Information System ("ARMIS").[1] Further review led the Commission to initiate a third phase for comment.

In its Phase 2 of the NPRM, the Commission seeks to streamline and reform its existing accounting and ARMIS requirements for ILECs in the short term by reducing certain accounting and ARMIS reports.[2] In Phase 3 of this NPRM, the Commission

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[1] Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1, CC Docket No. 99-253, *Report and Order*, 15 Rcd 8690 (2000) (*Phase 1 Report and Order*).

[2] 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket No. 00-199, *Notice of Proposed Rulemaking*, FCC 00-364 (rel. Oct. 18, 2000) (NPRM), at ¶ 3.

seeks to determine the appropriate levels of streamlining regulation in the long term. Phase 2 initial comments were filed December 21, 2000. ALTS did not file initial comments.

SUMMARY

As the leading national trade association representing facilities-based CLECs, ALTS believes that while streamlining regulation is a necessary and natural response to a competitive marketplace, deregulation is premature when competition in the telecommunications market is still at a nascent stage of development. Streamlining regulations does not lead to a more competitive market but rather should be a response to a market that has already moved toward competition.

Lifting certain regulatory requirements should be endorsed only to the extent of the proven level of competition. While ALTS encourages the Commission to move to a more deregulatory approach, ALTS contends that it is too soon to lift the accounting and ARMIS reporting requirements that allow both state and federal regulators to assess the level of competition in the local marketplace.

In the NPRM, the Commission proposed certain streamlined reporting and accounting requirements that would eliminate one-fourth of the Class A accounts in the Commission's Uniform System of Accounts (USOA), 47 C.F.R. Part 32, modify the Commission's affiliate transaction rules, and increase the expense limits rules.[3]

The Commission also sought comment on USTA's proposal to eliminate Class A accounts altogether, eliminate the continued property records (CPR) requirements, eliminate forecasts for use in allocating joint and common costs between regulated and non-regulated activities, and eliminate the majority of the ARMIS reports for mid-sized

ILECs, including all state-by-state reporting requirements.[4] In addition, the Commission asked whether it should add certain accounts to reflect recent changes in technologies and regulatory requirements.

ALTS agrees with those parties filing initial comments in this proceeding recommending that the Commission maintain the existing accounting and ARMIS reporting requirements. Most of the information that either the Commission seeks to streamline, or that USTA seeks to eliminate, is information relating to ILEC cost and investments. This information, reported at specific levels, is crucial to the emerging competitive market and is the only way to determine where the ILEC costs are attributed. Without the specific accounting detail, state and federal regulators would be left to playing a guessing game when assessing the appropriate rate structure for the ILEC.

Eliminating or streamlining specific accounting and ARMIS reporting data would up-end the current system in place at both the state and federal level and make it nearly impossible to ferret out the real costs of the ILEC network. This data is used to analyze a variety of policy issues including mergers, affiliate transactions, service quality, infrastructure development, network reliability, rate development, depreciation rates, rates of return, and other factors necessary to regulate the ILECs in a monopolistic telecommunications market. The Commission must not allow the ILECs to strategically shield themselves from regulatory scrutiny.

ALTS stated in its service quality comments in CC Docket No. 00-299 that "jumping the gun" on deregulating the ILECs could set a dangerous precedent in other issue-related proceedings. For example, in future section 271 applications, ILECs may

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[3] *NPRM* at ¶3.
[4] *Id.*

argue that they are no longer required to report sub-metrics vital to OSS performance and anti-backsliding measures. The risk is the same in this proceeding as well. ALTS sees no need for the ILECs to discontinue reporting data vital to the industry and urges the Commission to maintain the current accounting and reporting requirements.

In the NPRM, the Commission sought comment on whether section 32.11 should be amended to be limited to ILECs as defined in section 251(h) of the Communications Act, and any other companies that the Commission designates by order.[5] ALTS maintains that no regulatory or public interest need has been shown to require CLECs to gather and report the kinds of information that the ILECs are required to report. One of the goals of accounting and reporting data is to enable regulators to determine ILECs wholesale rates. CLECs depend on the ILEC network in addition to competing with the ILEC. Thus without regulators setting pro-competitive wholesale rates CLEC would be squeezed out of the market. It is improper, and somewhat illogical, to require CLECs to report network investment information when no telecommunications company depends on the CLEC in order to compete.

Finally, with respect to cost allocation, ALTS opposes elimination of the forecast use rule that could result in higher wholesale rates for CLECs. The forecast use rule is critical for allocating costs fairly between the ILEC regulated operations and ILEC non-regulated operations. Eliminating the forecast use rule could result in the ILECs allocating most, if not all, of its investments in new, non-regulated services, to regulated operations. The result is "padded" regulated costs that, in turn, effect the CLECs' ability to compete.

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5 *NPRM* @ ¶ 44.

I. STREAMLINING ACCOUNTING AND ARMIS REPORTING REQUIREMENTS IS PREMATURE AND NOT IN THE PUBLIC INTEREST

USTA argues that much of the detail currently required for Class A accounts does not serve a business purpose and therefore ILECs should not be forced to maintain sub-accounts or subsidiary records that are not required for business purposes and are solely for the benefit of regulators.[6] Congress would disagree. Section 11 of the Communications Act requires the Commission to review all regulations that apply to the operations and activities of any provider of telecommunications services and determine whether any such regulation is no longer necessary in the *public interest* as the result of meaningful competition between providers of such service (emphasis added).[7]

USTA's argument fails to take into account the requirement of Section 11 that the public interest determines the necessity of the regulation, not the business purpose. Incidental costs associated with the reporting investments and expenditures are not overly burdensome when balanced against the use of that data to maintain reasonable prices for consumers and, more importantly, allow for fully effective competition.

The Commission stated in the NPRM that Phase 2 is particularly appropriate at this time given the recent changes in the telecommunications industry.[8] Although ALTS would agree that the industry has changed significantly, ALTS also agrees with AT&T that, in general, there is no meaningful competition and that the ILECs still control over

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[6] *See* Comments filed by USTA, December 21, 2000 in CC Docket No. 00-199, at p.2 (*USTA Comments*).

[7] 47 U.S.C. § 161(a)(2). Section 11 of the Communications Act requires the Commission, in every even-numbered year beginning with 1998, to review all regulations that apply to the operations and activities of any provider of telecommunications services and determine whether any such regulation is no longer necessary in the public interest as the result of meaningful competition between providers of such service.

[8] *NPRM* at ¶2.

90% of the local market.[9] USTA also argues that the marketplace will determine the success or failure of prices and that unnecessary or inefficient prices do not survive the market.[10] ALTS disagrees. While the market eventually determines the price, that end is not met until the market is fully competitive. In fact the need for any type of accounting or reporting is further proof that the market has not reached the necessary levels of competition to alleviate regulatory pressure and satisfy the public interest test -- a test has not yet been met. Until then the regulators are the police force of competition and the accounting and ARMIS reports are the enforcement tools.

Further, the Commission has failed to provide any data that the accounting and ARMIS reporting requirements are no longer necessary and simply assumes that the market is moving toward competition and therefore regulations should be lifted. Absent any evidence that the market would benefit from restructuring the Commission's reporting requirements, or that the market has effective competition, ALTS urges the Commission to, at a minimum, maintain the current accounting and reporting requirements for ILECs.

II. STREAMLINING ACCOUNT DETAILS IS PREMATURE

Under the Commission's rules, ILECs record their costs and revenues in the USOA which provides in-depth detail on ILEC finances maintained in order to facilitate regulatory decision making.[11] This data is used to analyze a variety of policy issues including mergers, affiliate transactions, service quality, infrastructure development,

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9 *See* Comments filed by AT&T in CC Docket No. 00-199, December 21, 2000, at p. 1 (*AT&T Comments*).
10 *USTA Comments* at p. 5.
11 *NPRM* at ¶4.

network reliability, rate development, depreciation rates, rates of return, and other factors necessary to regulate the ILECs in a monopolistic telecommunications market.[12]

There are two classes of ILECs for accounting purposes: Class A and Class B. Class A carriers are those with annual revenues from regulated telecommunications operations that are equal to or above the indexed revenue threshold of $114 million.[13] All other carriers below that threshold are Class B carriers. Currently, Class A carriers are SBC Comunications, Inc., Qwest, Verizon, and BellSouth Corporation.[14] These Class A carriers are required to maintain 296 separate Class A accounts providing detailed records of investment, expense, and revenue. Class B carriers are required to maintain much less detailed records.[15]

ALTS agrees with several commenters that streamlining, or eliminating, operations, corporate, and administrative expense account details will lead to skewed cost information with respect to UNE pricing and universal service support, among other things. Under the Commission's proposal, 77 of 296 Class A accounts would be eliminated. Under USTAs proposal, Class A accounts would be eliminated altogether and all carriers would report under Class B accounts. ALTS disagrees with both proposals.

A. The Commission Should Not Adopt USTA's Proposal To Classify All Carriers as Class B

Class B lumps all switching equipment into one account. This would eliminate the Commission's, and many state commissions', ability to track investment in digital, ATM,

[12] *NPRM* at ¶4.
[13] *NPRM* at ¶5.
[14] *Id.*
[15] *Id.*

and DSL investment, as well as universal service support, UNEs, and pole attachments.[16] Many states allow parties to support proposed UNE rate filings with forward-looking costs based on cost models.[17] Further, the Commission notes in the NPRM that "there may be a continuing need for network plant and related accounts at the Class A level in order to maintain and use the universal service model [the Commission uses] in administering the universal service high cost fund for non-rural carriers.[18] These models essentially rely on disaggregated plant and expense data currently reported in the sub accounts of the ARMIS reports. Without sufficient disaggregation in the chart of accounts, the ILECs will certainly have an unfair advantage because they would be the only parties with access to disaggregated data.

Further, by adopting Class B accounting for all carriers, the Commission will not be able to update the depreciation ranges that are outlined in the Commission's December 1999 Depreciation Order. There will be no plant account information on which to base the update since the specific data for plant accounts will be replaced by summary account data by function. Without depreciation ranges, state commissions who no longer regulate depreciation, will have nothing upon which to base UNE decisions because a large number of UNE pricing decisions were based on Commission-prescribed depreciation factors.

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[16] *See* Comments filed by the Maryland Public Service Commission, December 21, 2000, in CC Docket No. 00-199, at p. 3 (*MDPSC Comments*): "Under Class B accounting, all outside cable and wire investments are contained in one account. Thus with Class B accounting, no detail would be available regarding the construction or make-up of the various types of outside plant. The Class A accounting costs accounts are critical components used to establish proper rates for universal service support, UNEs, and pole attachments that ILECs charge their customers and competitors. Maryland relies in part on this data that carriers report to the FCC as this information is often used in support of such pricing decisions." It is also significant to note that in those states where the Commission exercises jurisdiction over pole attachment rates it would be impossible for the Commission to determine just and reasonable rates without Class A data.

[17] *AT&T Comments* at p. 3.

[18] *NPRM* at ¶18.

B. Streamlining Class A Accounts Is Premature

The Commission proposes to streamline the Class A account structure by retaining the Class A accounts for the network plant and related assets and expenses. Other Class A accounts would be consolidated, resulting in a reduction of Class A accounts by one-fourth. All states have adopted the Commission's Part 32 rules because one system is more efficient than if each state adopted its own system of accounts for ILECs operating in each state. Lack of uniformity between the state and federal jurisdictions for accounting would make reconciliation difficult, at best, or impossible, at worst.

Moreover, lack of uniformity between the state and federal jurisdictions would make separations virtually impossible. The Florida Public Service Commission (FPSC) notes that the ARMIS data is collected in a uniform and standard format so that all states and the public have efficient and reliable access to critical data needed to establish UNE prices, interconnection rates, and universal service support.[19]

The Public Service Commission of Wisconsin (PSCWI) also supports the need for uniformity by stating that to the extent the Commission revises its uniform system of accounts, there will be pressure on the state commissions to make the same changes.[20] The result is that while additional burdens will be placed on the regulators, the burden on the ILECs will decrease. Increased burdens on the regulators will impede the competitive process, not promote it. For these reasons, ALTS urges the Commission to maintain its current reporting requirements.

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[19] *See* Comments filed by the Florida Public Service Commission Comments, December 21, 2000, CC Docket No. 00-199, at p. 11 (*FPSC Comments*).

[20] *See* Comments filed by the Public Service Commission of Wisconsin, December 21, 2000 in CC Docket No. 00-199, at p. 4, (*PSCWI Comments*).

C. Existing Accounting and ARMIS Reporting Is Not Burdensome

With respect to the burden on the ILECs, ALTS agrees with NARUC and the FPSC, that the Class A accounting requirements are not too burdensome for ILECS given that currently ILECs maintain from 2,000 to 3,000 accounts in their own systems.[21] In order to comply with the Commission's current Class A accounting, the carriers simply aggregate their own account balances into the existing Class A format, that consists of less than 300 accounts.[22]

The current system is workable and the ILECs have made no showing to the contrary. If anything, increased competition and technological innovation demand less aggregation from an accounting perspective. Maintaining the current level of aggregation, or increasing the aggregation in reported accounts, merely obfuscates the underlying goal of pursuing a competitive marketplace.

III. ADDITIONAL ACCOUNTS ARE NEEDED

ALTS agrees with NARUC, and state commissions that additional accounts are needed. New technologies are emerging all the time and the accounts need to reflect this change in the industry.[23] Thus ALTS agrees that new account information is needed to determine the cost of new technologies, to evaluate prices for UNEs and collocation, and to monitor deployment of new technologies. ALTS also supports NARUC's position that these accounts will enable the Commission and states to understand and monitor ILEC investment and to ensure that prices are reflective of actual costs.

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[21] *FPSC Comments* at p. 6; *See Also* Comments of the National Association of Regulatory and Utility Commissioners, filed December 21, 2000 in CC Docket No. 00-199 at p. 5 (*NARUC Comments*).

[22] *NARUC Comments* at p. 5.

[23] *FPSC Comments* at p. 6; *PSCWI Comments* at p. 3; *NARUC Comments* at p. 6.

Further, reporting advanced services data is required in all on-going proceedings at the state level to adequately determine ILEC compliance with Section 271 Operation Support Systems ("OSS").[24] That same information gathered at the state level is used in determining compliance with federal Section 271 applications. The Commission should require similar reporting in this proceeding.

IV. THE COMMISSION SHOULD NOT ELIMINATE CONTINUING PROPERTY RECORDS (CPRS)

The proposal to eliminate detailed requirements for continuing property record (CPR) additions, retirements, and record keeping is untenable and problematic.[25] These records are necessary to ensure that the network plant accounts accurately reflect those assets actually in service.[26] Further, CPRs provide data for jurisdictional separations and cost allocation studies in addition to providing material-only costs for accounting for transfers, reallocations, and adjustments of plant.[27]

If these records are inaccurate, virtually all of the ILEC cost data would be suspect. Compound this approach with the fact that recently Commission auditors concluded that at least $5 billion of ILEC plant cannot be accounted for, the Commission would be hard-pressed to eliminate the CPR reports. Also, 75 percent of the $5 billion falls under state jurisdiction, which only re-enforces the need for uniformity of the reports in order to ensure consistency at the state level. Moreover, without CPRs, depreciation rates would not be possible.

V. COST ALLOCATION FORECASTS SHOULD NOT BE ELIMINATED

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[24] OSS testing is either on-going or soon to be considered in states in the SBC, BellSouth, Verizon, and Qwest regions.
[25] *NARUC Comments* at p. 6; *FPSC Comments* at p. 7.
[26] *Id.*
[27] *Id.*

USTA argues that the requirement to forecast shared network investment in central office and outside plant accounts in Section 64.901(b)(4) should be eliminated. ALTS disagrees. The forecast use rule is critical for allocating costs fairly between the ILECs' regulated operations and the non-regulated "start-up" operations. Eliminating this rule could have the undesired effect of the ILEC allocating virtually all of its new investments to the regulated operations even though the investments are in fact being used to develop new, non-regulated activities.[28] The result is that the pieces of the network needed in order for CLECs to compete could increase in cost and thereby impair the CLECs' ability to effectively, and fairly, compete.

Also, ILECs could shield actual costs from the non-regulated activities resulting in an unfair price squeeze making it virtually impossible for the CLECs to compete for customers. If the CLECs are squeezed on the over-all price that the ILEC offers end-users for services and are also forced to pay higher rates for the UNEs necessary to provide service, then the CLEC will never be able to compete.

ALTS urges the Commission to continue to require the forecast use rule in order to prevent lop-sided regulatory, anti-competitive, results.

VI. CLECS SHOULD NOT BE SUBLECT TO SECTION 32.11

The Commission sought comment on whether Section 32.11 should only apply to ILECs as defined in Section 251(h) of the Communications Act, or should Section 32.11 be amended to included any other companies that the Commission designates by order.[29] Under the Commission's rules, ILECs record their costs and revenues in the USOA (Part

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28 *See* Comments filed by the North Carolina Public Utility Commission – Public Staff, December 21, 2000, in CC Docket No. 00-199, at p. 4, (*NCPUC – Public Staff Comments*).

29 *NPRM* @ ¶ 44. Section 32.11 of the Commission's rules divides companies into two categories for accounting purposes: Class A and Class B.

32). The USOA provides a financial based system maintained in sufficient detail to facilitate regulatory decision-making. Historically, the states have also relied on Part 32 accounts.

Thus the goal of Part 32 (USOA) is to ensure that the ILECs are maintaining adequate records in order for the regulators to make decisions affecting universal service support, consolidations and mergers, affiliate transaction rules, service quality, infrastructure development, network reliability, rate development, depreciation, rates of return, and industry trends. In summary, Part 32 rules are used to determine ILEC operations in a monopoly environment. These rules are also necessary to move the telecommunications market to competition. Thus it is not logical, nor is it helpful in any way for competition, to require CLECs to report under the USOA under Part 32 rules.

VII. CONCLUSION

Streamlining Accounting and Reporting Requirements

ALTS agrees that it is important to streamline regulations commensurate with competitive markets. However it is important for the Commission to maintain strict scrutiny on the ILEC operations where the ILECs continue to control over 90% of the local market. Accounting and ARMIS reporting data is the only way to determine emerging competition. Given that the USTA and Commission proposals affect both state and federal regulators it imperative that there is uniformity with specific data affecting regulations in different jurisdictions, especially since all ILECs operate throughout several different states and are subject to federal regulation as well. The best way to achieve that end, in the short term, is to maintain the current accounting and ARMIS reporting requirements.

Streamlining / Eliminating Class A Accounts

Streamlining Class A accounts is premature; eliminating Class accounts altogether is absurd. ALTS urges the commission to maintain the current system of reporting requirements for Class A and Class B carriers.

Additional Accounts

New information is needed to determine the cost of new technologies, evaluate process for UNEs and collocation, and monitor deployment of new technologies. New accounts will enable the Commission and states to understand and monitor ILEC investment and to ensure that prices are reflective of actual costs.

Continuing Property Reports (CPRs)

The Commission should not eliminate detailed requirements for continuing property reports. CPRs provide data critical to ensure that ILEC network plant accounts accurately reflect those assets actually in service.

Cost Allocation

The forecast use rule should not be eliminated. The forecast use rule is critical for allocating costs accurately between the ILECs' regulated operations and non-regulated "start-up" operations. Elimination of this rule to lead to increase costs for CLECs in that unnecessary costs allocated to regulated activities could force wholesale rates higher and impede competitive growth. Also, ILEC could shield actual costs from the non-regulated activities resulting in an unfair price squeeze making it virtually impossible for the CLECs to compete.

Carriers Subject to Section 32.11

Further, given that the industry is only in the early stages of competition, CLECs cannot, and should not, be expected to report to the Commission network infrastructure and costs. Until the market becomes fully competitive, however, the Commission must maintain the status quo otherwise competition will not develop and the Commission will have no need to streamline any regulations.

Respectfully submitted,

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